

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE: GOOGLE DIGITAL ADVERTISING
ANTITRUST LITIGATION

21-md-3010 (PKC)

ORDER

THIS ORDER APPLIES TO:

Google LLC v. Havas Media
Group USA, LLC, 24 Civ.
3063 (PKC)

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CASTEL, Senior District Judge:

Google commenced this proceeding in the Central District of Illinois on September 7, 2023, seeking to enforce compliance with two subpoenas. (ECF 1.)

One subpoena was issued by the Clerk of Court for this District under the caption State of Texas, et al. v. Google LLC, 21 Civ. 6841 (PKC) (the “Texas Action”), which was then proceeding before the undersigned but was remanded to the Eastern District of Texas on November 1, 2023. See 21 Civ. 6841 (11/1/23 docket notation). Although the subpoena was issued under the caption of the Texas Action, Google’s motion to compel references the “MDL actions,” and the Subpoena defines “Action” to refer to “all lawsuits consolidated” within the MDL docket number. (ECF 1, 1-5 at Def. ¶ 3.) The second subpoena was issued by the Clerk of Court for the Eastern District of Virginia in connection with United States, et al., v. Google LLC, 1:23 Civ. 108 (E.D. Va.) (LMB) (the “Virginia Action”).

Both subpoenas were issued to Havas Media Group USA, LLC (“Havas”), which is a non-party to the underlying actions, and is described by Google as an “advertising agency” and “industry participant.” (24 Civ. 3063, ECF 1.) The subpoenas

were served on May 22, 2023, with a compliance deadline of June 1, 2023. Both subpoenas identified the place of compliance as a business called Meador Investigations in Lincoln, Illinois. (Id.)

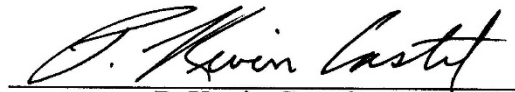
In a written Order of April 10, 2024, the Hon. Colin S. Bruce of the Central District of Illinois granted Havas's motion to transfer the proceeding to this District pursuant to Rule 45(f), Fed. R. Civ. P. (ECF 16.) The Order concluded that the subpoenas improperly designated Lincoln, Illinois as the place of compliance, when it should have been designated as New York, NY, where Havas maintains its headquarters. (Id. at 4-7.) The Order also made note of the MDL proceedings in this District. (Id. at 1-2.)

Following transfer, the Havas proceeding was randomly assigned to the Hon. Analisa Torres on April 22, 2024, and then, on April 23, randomly reassigned to the Hon. Vernon S. Broderick. On June 20, 2024, the undersigned accepted reassignment of the case as related to In re: Google Digital Advertising Antitrust Litigation, 21-md-3010 (PKC).

After transfer to this District, Google did not alert Judge Broderick that the Havas proceeding was potentially related to the MDL. Fact discovery will close in the MDL on June 28, 2024. (See 21-md-3010, ECF 394.) Moreover, document discovery apparently closed in the Virginia Action on October 6, 2023. (1:23 Civ. 108 (E.D. Va.) ECF 440.) The Court in the Virginia Action has set a schedule for pretrial submissions. (Id. ECF 871.) There is no indication on the docket that Google alerted Judge Broderick to the close of discovery in the Virginia Action, the looming close of discovery in the MDL, or made any other application to expedite enforcement of its subpoenas. The only filing by either party since the April transfer of this case is the June 25, 2024 motion of Michael W. Drumke to withdraw as counsel to Google. (ECF 18.)

No later than June 28, 2024, Google shall show cause in writing why Google LLC v. Havas Media Group USA, LLC, 24 Civ. 3063 (PKC), ought not be dismissed for failure to prosecute. In the event that Google believes this proceeding should go forward, it shall show cause in writing why the subpoena issued in the Virginia Action ought not be quashed as moot, and, separately, show cause in writing explaining its failure to alert Judge Broderick of the proceeding's relatedness to the MDL or to otherwise expedite the resolution of its motion in light of the imminent close of fact discovery in the MDL. Google's response should also propose what steps remain to bring the Havas proceeding to a close in light of the close of fact discovery in the Virginia Action and the June 28 close of fact discovery in the MDL.

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: New York, New York
June 26, 2024